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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/573,615	03/06/2007	Walter Dennis Robertson III	35015/044US	9787

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EXAMINER

HOGAN, JAMES SEAN

ART UNIT	PAPER NUMBER
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3752

MAIL DATE	DELIVERY MODE
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07/30/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

10/573,615

Applicant(s)

ROBERTSON III ET AL.

Examiner

JAMES S. HOGAN

Art Unit

3752

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 May 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11, 13-17, 19 and 20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 11, 13-17, 19 and 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to claims 11, 13-17, 19 and 20 have been considered but are moot as the modifying valve of Kessell et al exemplifies a parallel mating valve surfaces in both the open and closed positions. The rejection has been modified of this in paragraph 3 below. .

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 11, 13, 17, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,151,178 to Nickerson et al in view of U.S. Patent No. 3,740,019 to Kessell et al.

3. As per claims 11 and 17, Nickerson et al discloses (see Figure 3) an orifice member (212) defining a first surface, the orifice member having an inlet (at (214)) and an outlet (at (212)), a plunger (combined, (200) and (206)), a pole (30) and coil (28) which energized to move the plunger, the plunger being movable relative to the orifice member; a first guide spring (202) situated between the orifice member and the plunger and having a portion attached to a first end of the plunger, the first guide spring defining a second surface, the second surface being sealable against the first surface to prevent fluid flow between the inlet and the outlet. Nickerson et al does not teach the plunger

and spring attached to one another, and although it is taught away from such an attachment, the attachment of two items is obvious to one having ordinary skill in the art at the time the invention was made, since it has been held that forming in once piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. See *Howard v. Detroit Stove Works*, 150 U.S. 164 (1893).

Further, Nickerson does not teach the first and second sealing surfaces being co-planar when the plunger is in its closed position. However, Kessell et al discloses a valve of the same type as Nickerson et al, featuring a plunger (50, 47) and guide spring (36) arrangement (See Figures 1 and 2) where the second sealing surface (underside of spring (36) and the first sealing surface (at (68)) are substantially co-planar when the valve is in both its open and closed positions. Therefore, it would have been obvious to one having ordinary skill in the art to have provided the device of Nickerson et al with a sealing arrangement as suggested by Kessell et al. Doing so would provide a sealing surface where the spring is "at rest" in the closed position, and because (a) the Nickerson et al reference and the Kessell et al reference are known work in one of field of endeavor, (b) such modification is merely the use of known technique to improve a similar device by Applicant, and (c) such modification, i.e. choosing from a finite number of predictable solutions, is not of innovation but of ordinary skill and common sense. *KSR, International Co. v. Teleflex Inc.*, 550 U.S. (2007).

4. As per claim 13 and 19, the plunger is moved to the open position when the coil is energized.

5. As per claim 20, the guide spring of Nickerson urges the plunger in the closed position.
6. Claims, and 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,151,178 to Nickerson et al in view of U.S. Patent No. 3,740,019 to Kessell et al and further in view of U.S. Patent No. 4,635,683 to Neilson.
7. The rejection of claims 11 above serve as the basis for the following.

As per claims, 14-16, neither Nickerson et al nor Kessell et al teach a second guide spring attached to the second end (aka, proximal end) of the plunger. Neilson teaches a solenoid valve having a plunger (16) having flat guide springs ((36) and (32)) on both ends of the plunger, the second spring biasing a plunger into the closed position, and an elastomeric insert (14) in an opening defined by the plunger (16). Therefore, it would have been obvious to one having ordinary skill in the art to have provided the device of Nickerson et al with a flat guide springs on the second end of the plunger as suggested by Neilson. Doing so would provide additional valve member responsiveness and because (a) the Nickerson et al reference and the Neilson reference are *known work in one of field of endeavor*, (b) such modification is merely the use of known technique to improve a similar device by Applicant and (c) such modification, i.e. choosing from a finite number of predictable solutions, is not of innovation but of ordinary skill and common sense. *KSR, International Co. v. Teleflex Inc.*, 550 U.S. (2007).

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES S. HOGAN whose telephone number is (571)272-4902. The examiner can normally be reached on Mon-Fri, 6:00a-3:00p EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Len Tran can be reached on (571)272-1184. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3752

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. S. H./
Examiner, Art Unit 3752

/Len Tran/
Supervisory Patent Examiner, Art Unit 3752